

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
11-CR-366-A

MISAEAL MONTALVO, CARMEN M.
JUSTINIANO RAMIREZ, EFRAIN
HIDALGO, and BRANDON JONAS,

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1)(B) for pretrial proceedings. On April 16, 2014, Magistrate Judge McCarthy filed two Report and Recommendations, Dkt. Nos. 195 and 197, recommending, in part, that defendants' motions to dismiss Count 2 and Count 3 of a Superseding Indictment, each charging a murder in violation of 18 U.S.C. §§ 924(c)(1)(A)(iii) and 2, be denied. Defendants had argued that Counts 2 and 3 were time barred by statutes of limitations applicable to predicate offenses for the federal murder charges.

Defendants Efrain Hidalgo and Brandon Jonas filed objections to the recommendation of the Magistrate Judge that the Court deny defendants' motions to dismiss Counts 2 and 3 of the Superseding Indictment, sought severance of Counts 2 and 3 from a narcotics conspiracy charged in Count 1, and also sought unredacted discovery. Dkt. Nos. 201-02, 209. The United States filed responses. Dkt. Nos. 205

and 207. No objections were filed by other defendants. The Court heard oral argument June 26, 2014.

Pursuant to 28 U.S.C. § 636(b)(1), the Court has carefully reviewed the Report and Recommendations, Dkt. Nos. 195 and 197, and has reviewed *de novo* the portions of the Report and Recommendation, Dkt. No. 197, to which defendants have objected, and it is hereby

ORDERED, after *de novo* review, and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, Dkt. No. 197, defendants' motions to dismiss Counts 2 and 3 of the Superseding Indictment on statute of limitations and jurisdictional grounds are denied. Pursuant to Sections 3281 and 924(j) of Title 18, there is no statute of limitations for the federal murder offenses charged in Counts 2 and 3 of the Superseding Indictment. It is further

ORDERED, defendants' motions for severance and unredacted discovery are denied without prejudice. The Report and Recommendations, Dkt. Nos. 195 and 197, are adopted in their entirety. The parties shall appear to set a date for trial August 8, 2014 at 12:30 p.m.

IT IS SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: August 7, 2014